ORIGINAL

EX PARTE OR LATE FILED

DIGITAL BROADBAND COMMUNICATIONS

November 16, 2000

HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

REDACTED –
FOR PUBLIC INSPECTION

Re: Ex Parte Communication, CC Docket No. 00-176

Dear Ms. Salas:

Pursuant to Section 1.1206(b) of the Commission's rules and the Commission's Public Notice, DA 00-2159, released September 22, 2000, Digital Broadband Communications, Inc. ("Digital Broadband") hereby submits responses to questions posed by Commission Staff during an ex parte meeting held on November 1, 2000.

1. Commission Staff stated that Verizon asserts that CLECs routinely accept unqualified local loops and then open trouble tickets for the loops so that Verizon will condition them as repairs. The Staff asked whether Digital Broadband engages in this practice. As Digital Broadband stated in its Reply Comments in CC Docket No. 00-176, filed November 3, 2000 in response to this assertion, Digital Broadband does not engage in this practice.

2. Commission Staff asked whether SDSL loops make up a significant percentage of Digital Broadband's DSL loops that have experienced loop qualification problems or post-provisioning failures. Based on our review of available data, the answer is no. Digital Broadband does not experience greater difficulties for SDSL lines. Digital Broadband's total number of DSL loop orders are approximately **; **, or 17.3%, of those orders were for SDSL. With respect to all of the DSL loop failures encountered by Digital Broadband, approximately 13% (** of **) involved SDSL loops. Moreover, Digital Broadband believes that SDSL lines

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actually should have fewer problems than ADSL lines because ADSL lines are more prone to cause the electrical characteristics of a loop to be out of threshold than SDSL lines. For example, SDSL is not disturbed if a T-1 line is in the same binder group. Significantly, as to loop qualification, the loop qualification database that Verizon provides to CLECs, including Digital Broadband, does not distinguish among DSL "flavors" for qualification queries; consequently, it is not possible to determine the number of attempted loop qualifications that are for SDSL loops. We therefore also question any assertion by Verizon that SDSL loops affect mechanized loop qualification performance.

3. Commission Staff stated that Verizon asserts that CLECs will not accept installation appointments on weekends and during non-business hours. Commission Staff asked if this is true for Digital Broadband. The answer is that Verizon does not offer Digital Broadband Firm Order Commitment ("FOC") dates on weekends or after normal business hours. Accordingly, cooperative testing, which is performed by the Verizon technician at the same time and place of Verizon's installation of the loop at the point of demarcation on the FOC date, is not made available to Digital Broadband on weekends. Digital Broadband is willing to work with Verizon to expand the installation schedule.

Moreover, Digital Broadband submits that Verizon's assertions regarding weekend installations are not germane to Verizon's provisioning performance, as Digital Broadband has described in detail in its Declarations submitted to the Commission in this proceeding (see Comments of the Association for Local Telecommunications Services, Exhibit A), and is a red-herring meant to divert Staff from more meaningful issues. The installation of a loop on weekends does not address, and certainly has no impact on, the performance of the GUI/LQD that is used by CLECs for loop qualification, the failure of Verizon to provide FOC dates for facilities within the required intervals, and the failure of Verizon to actually deliver the facilities on time and in a functional condition.

4. Commission Staff stated that Verizon asserts that CLECs' reports of line troubles is disproportionately related to loops whose length is between 15,000 and 18,000 feet. Commission Staff asked Digital Broadband whether it experiences a disproportionate number of troubles on such loops. Digital Broadband does not track loop performance and repair history based on loop length after a loop is installed. However, Digital Broadband has examined its records relating to the rate of failures of initial testing at installation by Verizon and determined that there is no apparent correlation to initial testing failures and loops between 15,000 and 18,000 feet. Also, loop lengths could be determined for 62 failed orders in September 2000 and 101 failed orders in October 2000, and only 20% and 12% of those failures, respectively, involved loops in excess of 15,000 feet.

5. Commission Staff asked Digital Broadband whether it has had to resort to ordering special access lines because UNE loops were not available. The answer is yes. Digital Broadband in certain instances has had to order special access T-1 lines when its central office

collocation space is fully functional and ready to provide service, but the FOC date provided by Verizon for a UNE loop provisioned from that central office is so far in the future that the customer will not accept the date. Digital Broadband also has had to order special access inter-office facilities when it needs to establish connectivity between fully built central office collocation facilities, and Verizon is unable to provide a reasonable FOC for the ordered transport circuit.

6. Commission Staff asked Digital Broadband how the business rules work when Verizon responds that "no facilities are available" or when Verizon provides FOC dates that are beyond the standard interval. When Verizon responds to an order by stating that no facilities are available, the following outcomes are possible: (1) Digital Broadband can wait for facilities to become available, thereby delaying service to its customer and hoping that the customer will not cancel the order; (2) Digital Broadband's customer may cancel the order; or (3) Digital Broadband may sometimes be able to offer its customer an alternative (and, often, less attractive) broadband solution, which also delays service to the customer because Digital Broadband must re-initiate the ordering process with Verizon. When Verizon provides FOC dates beyond the standard interval, Digital Broadband may escalate the matter with Verizon and attempt to negotiate a shorter interval or accept the FOC. In either case, service to Digital Broadband's customer is delayed.

7. Commission Staff informed Digital Broadband that Verizon has stated that LFACS contains loop data for approximately 8-10% of the loop population. Digital Broadband has not been able to ascertain the source of any statement by Verizon regarding the actual percentage of the loops in Massachusetts that populate LFACS, or whether the figure referred to by Verizon includes only loops in Massachusetts that are at issue in this proceeding. Digital Broadband notes that in response to a data request from the Massachusetts Department of Telecommunications and Energy in D.T.E. 98-57 Phase III, Verizon stated only that LFACS "is not a 100 percent database of loop activity." *See* DTE 1-33 (copy attached). With respect to the content of LFACS, Verizon responded to another data request in the same proceeding by stating that LFACS contains, at a minimum, data regarding cable gauge, cable length, FDI locations and types, types and cable terminals served, bridge tap location with respect to distance from the central office, the availability of spare pairs, the identification and information concerning cables and pairs; and the presence of digital loop carrier. *See* RL/CVD 1-33 (copy attached). Because the data request was limited to the source of certain categories of information, Verizon's response was also limited. Accordingly, Verizon's response does not purport to recite all of the types of data found in LFACS. As the Commission Staff is aware, the mechanized loop database used by CLECs, such as Digital Broadband, is not populated with the same data as LFACS, which Verizon uses to assess the characteristics of loops.

In accordance with Commission rules and procedures in CC Docket No. 00-176, Digital Broadband is submitting both a copy of the portion of this submission that contains confidential information, and a redacted version of the entire submission. The confidential portion of this

submission also has been granted confidential treatment by the D.T.E. in D.T.E. 98-57 (Phase III), and is subject to a Protective Order in D.T.E. 99-271.

Please contact me if there are any questions regarding this submission.

Sincerely,

B Kelly Kiser/EMT

B. Kelly Kiser

Enclosures

cc: Kathy Ferroba, Common Carrier Bureau (by hand delivery)
Christopher Libertelli, Common Carrier Bureau (by hand delivery)
Susan Pié, Policy and Programming Planning Division, Common Carrier Bureau (by hand delivery)
Cathy Carpino, Esq., Massachusetts Department of Telecommunications and Energy
Josh Walls, Esq., U.S. Department of Justice, Antitrust Division, Telecommunications Task Force

NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY

COMMONWEALTH OF MASSACHUSETTS

D.T.E. 98-57 Phase III

Respondent: John White
Title: Executive Director, Wholesale Services

REQUEST: Department of Telecommunications and Energy, Set #1

DATED: July 18, 2000

ITEM: DTE 1-33 See p. 19, lines 1-4: Explain why LFACS would contain the additional information specified in this sentence for some loops but not others.

REPLY: The additional information entered into LFACS for some loops is there as a result of a manual Loop Make-Up being performed on that loop or the terminal at some time in the past. LFACS was designed to manage inventory, not to provide loop make-up information. Accordingly, many of the loops for which the CLECs may be seeking data will not be found in LFACS because it is not a 100 percent database of loop activity.

NET# 782

NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY

COMMONWEALTH OF MASSACHUSETTS

D.T.E. 98-57 Phase III

Respondent: Amy Stern
Title: Director-Telecom Industry Services

REQUEST: Rhythms Links Inc. and Covad Communications Company, Set #1

DATED: June 5, 2000

ITEM: RL/CVD 1-33 Assume that BAMA is about to plan and construct all new outside plant facilities to serve a new business park and/or residential complex (creating new plant feeder and distribution routes from the ground up). In that circumstance please identify which database(s) BAMA would enter each of the following types of data into or indicate that the data would not be maintained in any electronic database or system.

- The location of splice points.
- Cable gauges
- Cable lengths
- FDI locations and types
- Electronics locations and types
- Bridge tap location and design
- Repeater location and type
- Availability of spare pair
- Identification of cables, binder groups, pairs
- Presence and type of DLC
- Location serving area interfaces

REPLY: BA-MA objects to this request on the grounds that the phrase "outside plant facilities" in this context is vague, ambiguous and overbroad. BA-MA further specifically objects on the grounds of undue burden and relevance. Notwithstanding this objection, BA-MA responds as follows:

The following list of locations where information on specific plant characteristics can be found is generally accurate. There may always be instances when a data base or record is not completely updated.

REPLY: RL/CVD 1-33 (cont'd)

- Location of splice points - Paper plant location records.
- Cable Gauges - Plant location records, (see below).
- Cable lengths - Plant location records, (LMU in LFACs will provide cable length by gauge).
- FDI location and types - location is provided on plant location Records, FDI name and address (by BA naming conventions) is contained in LFACs; question is too vague as to what is meant by "type" to further respond.
- Electronics Locations and types - types and cables/terminals served can be found in LFACS. Physical locations can be found on plant location records.
- Bridge Tap location and design - actual locations and lengths are found in plant location records, location with respect distance from CO may be found in LFACs; question is too vague as to what is meant by "design" to further respond.
- Repeater Location and Type - Plant Location records.
- Availability of spare pair – LFACS.
- Identification of Cables, Binder Groups, Pairs – Cable and Pair information is maintained on plant location records and in LFACs. Binder Group identification is not maintained. The identification of the binder group is dependent on the size and type of cable involved.
- Presence and type of DLC-Plant Location records/LFACs.
- Location serving area interfaces-Plant Location records.